Distr.
LIMITED

E/CN.4/1994/L.86
4 March 1994

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fiftieth session
Agenda item 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Brunei Darussalam*, Iran (Islamic Republic of), Jordan*, Kuwait*, Malaysia, Pakistan, Senegal* and Sudan: draft resolution

Rape and abuse of women in the territory of the former Yugoslavia

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and other instruments of international humanitarian law, including the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto of 1977,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council

Recalling General Assembly resolution 3074 (XVIII) of 3 December 1973, entitled "Principles of international cooperation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity",

Recalling its resolution 1993/8 of 23 February 1993, entitled "Rape and abuse of women in the territory of the former Yugoslavia" and General Assembly resolution 48/143 of 20 December 1993, entitled "Rape and abuse of women in the areas of armed conflict in the former Yugoslavia",

Reaffirming the relevant Security Council resolutions, in particular resolution 798 (1992) of 18 December 1992 in which, inter alia, the Council strongly condemned those acts of unspeakable brutality,

Noting with deep concern the reports on the findings of the Special Rapporteur and the Secretary-General, assisted by the staff of the Special Rapporteur, regarding rape and abuse of women in the territory of the former Yugoslavia, particularly in the Republic of Bosnia and Herzegovina,

Convinced that this heinous practice constitutes a deliberate weapon of war in fulfilling the policy of ethnic cleansing carried out by Serbian forces in the Republic of Bosnia and Herzegovina, and noting General Assembly resolution 47/121 of 18 December 1992, in which the Assembly stated, inter alia, that the abhorrent policy of ethnic cleansing was a form of genocide,

Welcoming the establishment of an International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1992, in pursuance of Security Council resolutions 808 (1993) of 22 February 1993 and 827 (1993) of 25 May 1993,

Desirous of ensuring that persons accused of upholding and perpetrating rape and sexual violence as a weapon of war in the areas of armed conflict in the former Yugoslavia will be brought to justice by the International Tribunal where appropriate,

Recognizing the extraordinary suffering of the victims of rape and sexual violence and the necessity for an appropriate response to provide assistance to those victims,

Deeply alarmed at the situation facing victims of rape in the conflicts in different parts of the world, in particular in the Republic of Bosnia and Herzegovina, and the continuing use of rape as a weapon of war,

Noting with appreciation the work of humanitarian organizations aimed at supporting the victims of rape and abuse and alleviating their suffering,

Taking into account resolution 37/7 of 25 March 1993 of the Commission on the Status of Women,

Expressing its appreciation to the Secretary-General for his report entitled "Rape and abuse of women in the areas of armed conflict in the former Yugoslavia" (A/48/858),

Commending the Special Rapporteur for his report on the situation of human rights in the territory of the former Yugoslavia (E/CN.4/1994/47),

1. Strongly condemns the abhorrent practice of rape and abuse of women and children in the areas of armed conflict in the former Yugoslavia which constitutes a war crime;

2. Expresses its outrage that the practice of rape is being used as a weapon of war and an instrument of ethnic cleansing against the women and children in the former Yugoslavia, in particular against Muslim women and children in Bosnia and Herzegovina;

3. Demands that those involved immediately cease those outrageous acts, which are in gross violation of international humanitarian law, including the Geneva Conventions of 1949 and the Additional Protocols thereto, and take immediate action to ensure the enjoyment of human rights and fundamental freedoms in accordance with their obligations under those instruments and other applicable international human rights instruments;

4. Urges all States Members of the United Nations to take joint and separate action, in cooperation with the United Nations, to bring about an end to this despicable practice;

5. Reaffirms that all persons who perpetrate or authorize crimes against humanity and other violations of international humanitarian law are individually responsible for those violations, and that those in positions of authority who have failed adequately to ensure that persons under their control comply with the

relevant international instruments are accountable together with the perpetrators;

6. Urges States Members of the United Nations to exert every effort to bring to justice, in accordance with internationally recognized principles of due process, all those individuals directly or indirectly involved in these outrageous international crimes;

7. Endorses the decision of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia to allow the Commission of Experts established under Security Council resolution 780 (1992) to take the lead on special studies of this issue to avoid duplication but to continue to pay attention to the widespread occurrence of rape, particularly in Bosnia and Herzegovina;

8. Supports the Commission of Experts in its initiative to investigate the issue of systematic rape of women in the former Yugoslavia through its envisaged Plan of Action in which special emphasis will be given to allegations of sexual assault;

9. Urges the Commission of Experts to treat its investigation on this issue as a matter of priority, and welcomes its intention to reflect the results of its study in its final report expected to be submitted by the end of April 1994;

10. Calls on all States that host refugees from the former Yugoslavia to provide the necessary assistance to the Commission of Experts in its efforts to interview or otherwise collect evidence for its investigation of the systematic practice of rape of women;

11. Urges all States and all relevant intergovernmental and non-governmental organizations, including the United Nations Children's Fund, the Office of the United Nations High Commissioner for Refugees and the World Health Organization, to continue to provide to the victims of such rape and abuse appropriate assistance for their physical and mental rehabilitation;

12. Requests the Secretary-General to continue providing such necessary means as are available to him in the area to enable the Commission of Experts and the Special Rapporteur to perform their missions in this respect;

13. Decides to remain seized of this matter.